

Exhibit 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ENRIQUE JEVONS, as managing) Case No. 1:20-cv-3182-SAB
member of Jevons Properties,)
LLC, et al.,) August 24, 2021
Plaintiffs,) Video Conference
v.) Motions for Summary
JAY INSLEE, in his official) Judgment Hearing
capacity of the Governor of the)
State of Washington, et al.,) Pages 1 to 31
Defendants.)

BEFORE THE HONORABLE STANLEY A. BASTIAN
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

For the Plaintiffs: Richard M. Stephens
Stephens@sklegal.pro
Stephens & Klinge LLP
601 108th Avenue NE
Suite 1900
Bellevue, WA 98004
425-453-6206

For the Defendants: Cristina Sepe
Cristina.sepe@atg.wa.gov
Brian H. Rowe
Brian.rowe@atg.wa.gov
Washington State Office of the
Attorney General
800 Fifth Avenue
Suite 2000
Seattle, WA 98504
206-342-6409

1 Official Court Reporter: Kimberly J. Allen, CCR #2758
2 United States District Courthouse
3 P.O. Box 685
4 Richland, Washington 99352
5 (509) 943-8175

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1 (August 24, 2021; 10:35 a.m.)

2 THE COURT: Good morning, everyone.

3 Michelle, why don't you call the case.

4 THE COURTROOM DEPUTY: Okay. We have *Enrique Jevons,*
10:35:38 5 *et al. v. Jay Inslee, et al.*, Case No. 1:20-cv-3182-SAB. Time
6 set for a motion hearing. On behalf of plaintiffs we have
7 Richard Stephens, and then on behalf of defendants we have, by
8 video, Cristina Sepe, and then by telephone, Brian Rowe. And
9 Cristina Sepe will be handling the argument.

10:36:10 10 Thank you.

11 THE COURT: All right. Well, good morning to counsel.
12 We're here for some cross-motions for summary judgment. We do
13 have a court reporter listening and making a record, so as you
14 make your remarks, please make sure you speak up. Sometimes one
10:36:32 15 of us will drop off the line. That has happened on occasion;
16 not very often. If it does, we will notice that, and we will
17 take steps and wait. So don't panic if you drop off.

18 There are cross-motions for summary judgment, and so I
19 will give both sides 15 minutes to make their main presentation.
10:36:53 20 I'll give you both an opportunity to -- to respond for five
21 minutes.

22 I think it just seems to fit better to have the defense
23 begin, when there's motions for summary judgment to dismiss, so
24 unless you disagree, Ms. Sepe, I'll let you begin.

10:37:14 25 MS. SEPE: Good morning, Your Honor, and may it please

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1 this case should, declare that the effect of the proclamations,
2 even in light of this new statute, still requires the payment of
3 compensation under the Takings Clause of the Fifth Amendment.

4 THE COURT: Let me correct myself. I said declaratory
11:14:29 5 judgments. I meant advisory judgments or advisory opinions. So
6 in case I misled you, I meant to say advisory, not declaratory.

7 MR. STEPHENS: That's all I have unless you have --

8 THE COURT: Oh, okay. Sorry. All right. Thank you.
9 Thank you, Counsel.

11:14:43 10 I'll consider the record closed, and let me make some
11 preliminary comments, and I will make a ruling.

12 This case is based on the fact that on February 29th of
13 the year 2020, Governor Jay Inslee declared a state of emergency
14 and -- based on the COVID-19 pandemic and began his
11:15:10 15 proclamations with Proclamation No. 20-05. He followed that up
16 soon thereafter with Proclamation 20-19 and several amendments
17 or extensions to that. This began in March of 2020 with an
18 order from the governor placing a temporary moratorium on
19 evictions. He did that for the reasons that are adequately
11:15:39 20 described in the record and will be mentioned in my written
21 opinion.

22 It's the Court's understanding that on June 30th, 2021,
23 the original eviction moratorium and the extensions expired, but
24 based on legislation, Governor Inslee then issued
11:16:00 25 Proclamation 21-09, which is what is referred to as the bridge

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1 proclamation. Evictions are still being prohibited unless
2 certain procedures are followed, and those procedures are stated
3 in the legislation that has been mentioned. And just for the
4 record -- let me get the right number -- that is Senate
11:16:22 5 Bill 5160.

6 Those are the essential facts. It's my understanding
7 that both parties agree that there are no material issues of
8 fact, and so a ruling on the legal issues is appropriate.

9 Let me make some general observations.

11:16:36 10 No. 1: Our government can, should, and must protect the
11 public's health and safety during a global pandemic, such as we
12 have experienced with COVID-19 over the past 18 months.

13 No. 2: Likewise, the people, all of us collectively,
14 can, should, and must protect ourselves but also each other
11:16:58 15 during this global pandemic.

16 No. 3: The state proclamations at issue in this case
17 are part of the emergency efforts by Governor Jay Inslee, the
18 duly elected governor of the state of Washington, to exercise
19 his powers and responsibilities to protect the people from the
11:17:17 20 COVID-19 global pandemic and to protect the economy of the state
21 of Washington.

22 Finally, the issue, therefore, is whether these
23 proclamations are legal and constitutional. The answer is yes.
24 Based on the factual record before the Court, which both parties
11:17:36 25 agree is not disputed, the Court makes the following

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1 conclusions. These will be fleshed out more in a written
2 opinion.

3 No. 1: The Court has subject matter jurisdiction.

4 No. 2: The Court -- the plaintiffs' claims are not moot
11:17:50 5 because of the bridge proclamation, but that's a very close
6 call. But I will go on to the other substantive issues.

7 No. 3: In terms of the Eleventh Amendment, Governor
8 Inslee is immune from suit by the Eleventh Amendment. He's
9 always been immune from suit. The Court is disappointed with
11:18:10 10 the plaintiffs for suing Governor Inslee and ignoring the
11 Eleventh Amendment and expecting the governor to waive the
12 Eleventh Amendment. In the Court's opinion, that happens much
13 earlier. It doesn't happen after a lawsuit is filed.

14 If a claim for sanctions is brought by the State, that
11:18:30 15 will have to be done at another time, but the Court will give
16 that serious consideration.

17 Attorney General Ferguson is not immune based on the
18 Eleventh Amendment, based on the case of *In re: Young*, the
19 Supreme Court case from 1908.

11:18:48 20 No. 4: The parties agree that the -- this Court is not
21 the appropriate court in which to decide issues of state
22 constitutional law.

23 The Court is also disappointed in the plaintiff and
24 Mr. Stephens, the attorney for the plaintiffs, for bringing such
11:19:06 25 claims and wasting the State's time and the Court's time with

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1 claims that he should know are not appropriately before the
2 Court.

3 No. 5: Regarding the Fifth Amendment takings claim,
4 this Court finds that the proclamations at issue do not violate
11:19:22 5 the Fifth Amendment of the United States Constitution. This is
6 not a per se taking case, as alleged by the plaintiff. The
7 plaintiffs are not requesting damages. It is not appropriate
8 for this Court to issue advisory rulings on Fifth Amendment
9 taking claims.

11:19:41 10 The case of *Cedar Points* is not helpful to the factual
11 situation of this case. This case does not involve the same
12 facts as confronted by the Supreme Court in *Cedar Points*.

13 No. 6: The Contracts Clause of the United States
14 Constitution was not violated. The proclamations were carefully
11:20:01 15 tailored to the national emergency. The eviction moratoriums
16 were an appropriate and reasonable method to advance a
17 significant and legal purpose. That purpose is actually
18 twofold. The purpose was to protect the health and welfare of
19 the people of the state of Washington; an appropriate effort was
11:20:21 20 made by Governor Inslee to do that. The second purpose was to
21 reduce, but not necessarily eliminate, the economic hardship
22 occasioned by the COVID-19 pandemic.

23 Finally, the substantive Due Process Clause of the
24 Fourteenth Amendment was not violated. The proclamations
11:20:38 25 involved are neither vague nor oppressive, and they are

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1 rationally based on the facts presented.

2 The plaintiffs' motion for summary judgment is denied.
3 The defendants' motion for summary judgment is granted. The
4 Court will consider a motion for terms and sanctions, if the
5 State files such a motion.

11:20:56

6 Are there any questions? Ms. Sepe?

7 MS. SEPE: No questions, Your Honor. Thank you.

8 THE COURT: Mr. Stephens?

9 MR. STEPHENS: No, Your Honor.

11:21:05

10 THE COURT: Thank you. Court's in recess.

11 (Hearing concluded at 11:21 a.m.)

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C E R T I F I C A T E

I, KIMBERLY J. ALLEN, do hereby certify:


That I am an Official Court Reporter for the United States District Court for the Eastern District of Washington in Richland, Washington;

That the foregoing proceedings were taken on the date and at the time and place as shown on the first page hereto; and

That the foregoing proceedings are a full, true and accurate transcription of the requested proceedings, duly transcribed by me or under my direction.

I do further certify that I am not a relative of, employee of, or counsel for any of said parties, or otherwise interested in the event of said proceedings.

DATED this 1st day of September, 2021.

A handwritten signature in blue ink, appearing to read "Kimberly J. Allen", is written over a horizontal line.

Kimberly J. Allen, CRR, RMR, RPR, CCR(WA)
Washington CCR No. 2758
Official Court Reporter
Richland, Washington